

**House File 505 - Introduced**

HOUSE FILE 505  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO HF 338)

**A BILL FOR**

1 An Act relating to public access to data processing software  
2 under Iowa's open records law.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.2, subsection 3, paragraph b, Code  
2 2015, is amended to read as follows:

3 *b.* Data processing software developed by the government  
4 body or developed by a nongovernment body and used by a  
5 government body pursuant to a contractual relationship with the  
6 nongovernment body, as provided in section 22.3A.

7 Sec. 2. Section 22.3A, subsection 2, Code 2015, is amended  
8 to read as follows:

9 2. *a.* A government body may provide, restrict, or prohibit  
10 access to data processing software developed by the government  
11 body or developed by a nongovernment body and used by a  
12 government body pursuant to a contractual relationship with the  
13 nongovernment body, regardless of whether the data processing  
14 software is separated or combined with a public record. A  
15 government body shall establish policies and procedures to  
16 provide access to public records which are combined with  
17 its data processing software. A public record shall not be  
18 withheld from the public because it is combined with data  
19 processing software.

20 *b.* A government body shall not acquire any electronic data  
21 processing system for the storage, manipulation, or retrieval  
22 of public records that would impair the government body's  
23 ability to permit the examination of a public record and the  
24 copying of a public record in either written or electronic  
25 form.

26 *c.* ~~If it is necessary to separate a public record from~~  
27 is only available as a part of or in combination with data  
28 processing software in order to permit the examination or  
29 copying of the public record, the government body shall bear  
30 the cost of separation of the public record from the data  
31 processing software.

32 *d.* ~~The~~ An electronic public record shall be made available  
33 in a the format in which it is readily accessible to the  
34 government body if that format is useable with commonly  
35 available data processing or database management software.

1 The government body may make a public record available in a  
2 specific format requested by a person that is different from  
3 that in which the public record is readily accessible to the  
4 government body and may charge the reasonable costs of any  
5 required processing, programming, or other work required to  
6 produce the public record in the specific format in addition to  
7 any other costs allowed under this chapter.

8 e. The cost chargeable to a person receiving a public record  
9 separated from data processing software under this subsection  
10 shall not be in excess of the charge under this chapter unless  
11 the person receiving the public record requests that the public  
12 record be specially processed or produced in a format different  
13 from that in which the public record is readily accessible to  
14 the government body.

15 f. A government body may establish payment rates and  
16 procedures required to provide access to data processing  
17 software, regardless of whether the data processing software  
18 is separated from or combined with a public record. Proceeds  
19 from payments may be considered repayment receipts, as defined  
20 in section 8.2. The payment amount shall be calculated as  
21 follows:

22 ~~a.~~ (1) The amount charged for access to a public record  
23 shall be not more than that required to recover direct  
24 publication costs, including but not limited to editing,  
25 compilation, and media production costs, incurred by the  
26 government body in developing the data processing software  
27 and preparing the data processing software for transfer to  
28 the person. The amount shall be in addition to any other fee  
29 required to be paid under this chapter for the examination and  
30 copying of a public record. If a person accesses a public  
31 record stored in an electronic format that does not require  
32 formatting, editing, or compiling to access the public record,  
33 the charge for providing the accessed public record shall not  
34 exceed the reasonable cost of accessing that public record.  
35 The government body shall, if requested, provide documentation

1 which explains and justifies the amount charged. This  
2 ~~paragraph~~ subparagraph shall not apply to any publication for  
3 which a price has been established pursuant to another section,  
4 including section 2A.5.

5 ~~b.~~ (2) If access to the data processing software is  
6 provided to a person for a purpose other than provided in  
7 ~~paragraph "a"~~ subparagraph (1), the amount may be established  
8 according to the discretion of the government body, and may be  
9 based upon competitive market considerations as determined by  
10 the government body.

11 Sec. 3. Section 22.7, subsection 33, Code 2015, is amended  
12 to read as follows:

13 33. Data processing software, as defined in section 22.3A,  
14 which is developed by a government body or developed by a  
15 nongovernment body and used by a government body pursuant to a  
16 contractual relationship with the nongovernment body.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with  
19 the explanation's substance by the members of the general assembly.

20 This bill relates to public access to data processing  
21 software under Iowa's open records law (Code chapter 22).

22 Under current law, a government body may provide, restrict,  
23 or prohibit access to data processing software developed  
24 by the government body, regardless of whether the data  
25 processing software is separated or combined with a public  
26 record. A government body is required to establish policies  
27 and procedures to provide access to public records that are  
28 combined with its data processing software. A public record  
29 cannot be withheld from the public because it is combined with  
30 data processing software. A government body may establish  
31 payment rates and procedures required to provide access to data  
32 processing software, regardless of whether the data processing  
33 software is separated from or combined with a public record.  
34 Under Code chapter 22, "government body" means this state,  
35 or any county, city, township, school corporation, political

1 subdivision, or tax-supported district; certain nonprofit  
2 corporations; the governing body of a drainage or levee  
3 district; or any other entity of this state; or any branch,  
4 department, board, bureau, commission, council, committee,  
5 official, or officer or employee of any of the foregoing.

6 The bill provides that a government body may provide,  
7 restrict, or prohibit access to data processing software  
8 developed by a nongovernment body and used by a government body  
9 pursuant to a contractual relationship with the nongovernment  
10 body.

11 The bill requires a government body to make an electronic  
12 public record available in the format in which it is readily  
13 accessible to the government body if that format is useable  
14 with commonly available data processing or database management  
15 software. The government body may make a public record  
16 available in a specific format requested by a person that is  
17 different from that in which the public record is readily  
18 accessible to the government body and may charge the reasonable  
19 costs of any required processing, programming, or other work  
20 required to produce the public record in the specific format,  
21 in addition to any other costs allowed under Code chapter  
22 22. If the person receiving a public record requests that the  
23 public record be specially processed or produced in a format  
24 different from that in which the public record is readily  
25 accessible to the government body, the costs chargeable to the  
26 person may be higher.

27 Conforming Code changes are made in the bill to Code  
28 sections 22.2 (access to data processing software) and 22.7  
29 (confidential records exceptions).